

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PITTSFIELD GENERATING COMPANY, L.P.,

Plaintiff,

V.

DEVON CANADA CORPORATION,

Defendant.

Civil Action No:  
04-30128-MAP

## **DEFENDANT DEVON CANADA CORPORATION'S STATUS REPORT ON PARALLEL LITIGATION**

Pursuant to the Court's Order of December 28, 2004, Defendant Devon Canada Corporation ("Devon") hereby submits this report on the status of the parallel Alberta litigation (the "Action"). As requested by the Court's Order, Devon will continue to file subsequent status reports every six months.

Regarding the parallel Alberta Action, which involves the above-named and additional parties, the parties currently are conducting in Alberta what would be the equivalent of discovery in the United States. More specifically, the following significant events have occurred within the last six months:

1. In July of 2006, the Defendants (PE-Pittsfield LLC, PurEnergy I LLC, Pittsfield Generating Company LP, Altresco Inc. and Pittsfield Partners Inc.) and the Plaintiff by Counterclaim (Pittsfield Generating Company LP (“PGC”)) filed an Amended Statement of Defence and Amended Counterclaim, and served counsel for the Plaintiff and Defendant by Counterclaim (Devon Canada Corporation (“Devon”)), Carscallen Lockwood LLP, with the

same. Counsel for the Defendants and Plaintiff by Counterclaim, Peacock Linder & Halt LLP (“PLH”) also confirmed that their clients had further records to produce prior to examinations for discovery (the equivalent of depositions in the United States).

2. In August of 2006, PLH provided Carscallen Lockwood LLP with copies of their clients’ supplemental producible records and a Supplemental Affidavit of Records in relation thereto. PLH also indicated to Carscallen Lockwood LLP that they may have further records to produce as well. The parties confirmed dates for examinations for discovery in August and September, 2006.

3. On August 25, 2006, Carscallen Lockwood LLP provided PLH with an unfiled copy of Devon’s pleadings in answer to the Amended Statement of Defence and Amended Counterclaim. Carscallen Lockwood LLP requested that PLH provide their consent to the filing of such pleadings.

4. On August 30 and 31, 2006 Carscallen Lockwood LLP conducted an examination for discovery (deposition) of Don Scholl as representative for the Defendants and Plaintiff by Counterclaim. Eighty-six (86) undertakings were given by Mr. Scholl, which require him to search for and produce numerous additional records, make enquiries of others for further information, etc.

5. In September of 2006, Carscallen Lockwood LLP agreed with PLH’s proposal that PLH’s examination for discovery of Devon’s representative scheduled for September 20 and 21, 2006, be postponed. The parties determined that this was appropriate in light of the numerous documents that would have to be produced through the undertakings given by Mr.

Scholl at the examination for discovery of August 30 and 31, as well as the other information that would have to be provided through such undertakings.

6. On October 19, 2006, PLH provided their consent to the filing of Devon's revised pleadings. On October 23, 2006, Carscallen Lockwood LLP filed and served Devon's pleadings in answer to the Defendants' Amended Statement of Defence and PGC's Amended Counterclaim.

7. From November 2006 through the present, the parties have worked, and continue to work, toward coordinating the next round of examinations for discovery. PLH and their clients must provide answers to the eighty-six (86) undertakings given at the examinations for discovery on August 30 and 31, 2006. The next round of examinations will consist of an examination of Mr. Scholl in relation to those answers and an examination of the representative of Devon.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Defendant Devon Canada Corporation's Status Report on Parallel Litigation was served via electronic filing on the 20<sup>th</sup> day of December, 2006 on the following:

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/s/ Michelle C. Pardo